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**Florida Offices**

6841 Energy Ct.  
Sarasota, FL 34240  
T. (941) 893-3449

701 Waterford Way  
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1441 West Long Lake Rd.  
Suite 310  
Troy, MI 48098  
T. (248) 644-6326  
F. (248) 644-6324

[www.ChapmanLawGroup.com](http://www.ChapmanLawGroup.com)

April 14, 2022

***Via Electronic Mail Only***

Assistant U.S. Attorneys Brandy McMillion, Brandon Helms, and Gjon Juncaj

Email: [brandy.mcmillion@usdoj.gov](mailto:brandy.mcmillion@usdoj.gov)

Email: [brandon.helms@usdoj.gov](mailto:brandon.helms@usdoj.gov)

Email: [gjon.juncaj@usdoj.gov](mailto:gjon.juncaj@usdoj.gov)

Re: *United States v. Dr. David Lewis*, Case No. 2:18-cr-20800  
CLG Case No. 03.02.22.CLG.0329

**NOTICE OF EXPERT TESTIMONY**

Pursuant to Federal Rule of Criminal Procedure 16(b)(1)(C), this notice provides the Government with a summary of the expected expert testimony that the Defendant intends to offer at trial. In addition to identifying Defendant's expert, below, is a written description of the proposed expert testimony, the expert's opinion, and a description of the expert's qualifications. If additional experts are retained, Defendant will provide notice as required.

**Mr. Sean Weiss, CHC, CMCO, CPMA, CPC**

Mr. Weiss has a plethora of education and certification related to healthcare billing and coding. Most notably, Mr. Weiss is certified in Healthcare Compliance (CHC) by the Health Care Compliance Association. He is also a Certified Medical Compliance Officer (CMCO) by the Practice Management Institute and Liles Parker, LLC, a Certified Professional Medical Auditor (CPMA) by the American Academy of Professional Coders, and a Certified Professional Coder (CPC) by the American Academy of Professional Coders. He has previously served as an expert witness in many cases and testified on issues related to local coverage determinations and medical policies, in which he draws from his vast knowledge and expertise in healthcare billing and coding.

Defendant anticipates that Mr. Weiss will testify regarding local coverage determinations and related medical policies for pain management practices located in Michigan. He will testify about the decisions involved in such coverage determinations as well as the billing and coding involved. He will also speak to when pain management treatments, such as opioids and facet injections, are medically necessary, and thus, eligible for reimbursement under State-funded health insurance programs, such as Medicare, Medicaid, and Blue Cross/Blue Shield of Michigan. Mr. Weiss will then specifically discuss Dr. Lewis' pain management practice at The Pain Center USA, PLLC. He will testify that

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after an exhaustive review of Dr. Lewis' relevant patient records and prescriptions of controlled substances at issue in Counts 30, 31, and 53 of the indictment, that such prescriptions were consistent with both local coverage determinations in Michigan and related medical policies for pain management. Relatedly, Mr. Weiss will testify that Dr. Lewis prescribed controlled substances legitimately, within the usual course of professional practice and for a legitimate medical purpose. *See* 21 U.S.C. § 841(a)(1).

Mr. Weiss is uniquely qualified to offer this expert testimony. Beyond the certifications he has achieved and his experience as an expert witness, both of which were previously discussed, he has been involved in healthcare since 1996 in a variety of capacities and worked for some of the nation's largest health systems. After he became a certified coder in 1997 through the American Academy of Professional, he earned his certifications on the payor side as an auditor. He holds certifications with HCCA, MGMA, NAMAS, PMI, and BAMC as a Compliance Officer, Auditor, Medical Practice Executive, and Advanced Coding Specialist in Evaluation and Management Services. Currently, Mr. Weiss is a partner and serves as Vice President and Chief Compliance Officer of Doctors Management, LLC, which is a full-scale practice management and regulatory consultancy, based in Knoxville, Tennessee. Throughout his career, Mr. Weiss has spent a considerable number of years extensively working with congress and has weighed in on key legislative issues affecting healthcare providers. His scholarly publications are equally impressive, and he has published works on healthcare billing, coding, and local coverage determinations in numerous industry-leading journals, including Medical Economics, Part B News, BC Advantage, The Coding Edge, and MGMA Connections. Mr. Weiss has also been an invited lecturer at many speaking engagements, including The American Alliance of Orthopedic Executives, The American Academy of Professional Coders, The American Academy of Family Practitioners, and The National Alliance of Medical Auditing Specialists. His expertise has made him a sought-after addition to many boards and steering committees, including the Editorial Board for BC-Advantage, in Nevada and South Carolina, and the Columbia/HCA Steering Committee, in Tennessee. In addition, he has received several awards recognizing his extensive involvement in the healthcare field, including an Award for Excellence in Service Journalism from the United Communications Group, and The Jim Altizer Memorial Award from the Medical Management Institute). Attached is Mr. Weiss' CV for additional background and review.

Should you have any questions, do not hesitate to contact our office at your convenience. Remaining,

**Chapman Law Group**



**Ronald W. Chapman II, Esq., LL.M.**

*Counsel for Defendant Lewis*

1441 West Long Lake Road, Suite 310

Troy, MI 48098

T: (248) 644-6326/F: (248) 644-6324

RWChapman@ChapmanLawGroup.com

RWCII/MJP/sfa

Attachment

**Curriculum Vitae of Sean M. Weiss,**

**CHC, CEMA, CMCO, CPMA, CPC-P, CMPE, CPC, CMC, CMIS, CMOM**

**Professional Experience:**

- DoctorsManagement, LLC, Knoxville, TN – Partner and Vice President of Compliance, Dec. 2012 to present – The below are organizations under contract to DoctorsManagement for whom I serve as the Compliance Officer or in another Senior Capacity:
  - o Articularis Health Group (AHG), Charleston, South Carolina – Chief Compliance Officer, 2019 – Current
  - o OrthoFlorida / IHBS, Tampa, FL – Chief Compliance Officer, 2019 – Current
  - o Boston Neuro Behavioral Associates, Boston, Massachusetts – Compliance Officer, 2020 – Current
  - o Athens Orthopedic Clinic (AOC), Athens, Georgia – Compliance Consultant to Chief Compliance Officer, 2017 – Current
  - o Georgia Bone and Joint, Newnan, Georgia – Compliance Officer – 2018 – Current
  - o Array Skin Therapy (AST), Orange Country, California – Compliance Officer – 2018 – Current
  - o Chicago IVF – Chicago, Illinois – Compliance Officer – 2018 – Current
  - o PJ Therapy, Elberton, Georgia – Compliance Officer – 2019 – Current
  - o Adventist Health System, Orlando, FL – Interim Director of Coding, 2014 to 2016
  - o Inova Health System, Fairfax, VA – Senior Director of Revenue Integrity, 2018 and 2019
- DecisionHealth, LLC, Gaithersburg, MD – Vice President/Chief Compliance Officer, Jan. 2008 to Nov. 2012
- The CMC Group, LLC, Atlanta, GA – Senior Partner and Chief Compliance Officer, July 2003 to Dec. 2007
- Columbia/HCA, Brentwood, TN – Physician Consultant, 1999 to 2001
- Tenet Health System (Tenet Physician Services of the Southeast), Atlanta, GA Senior Analyst & Compliance Officer (1998-1999)
- The Medical Management Institute, Alpharetta, GA – Director of Consulting and Senior Management Consultant, 1996-1998, 2001-2003

**Compliance Officer Responsibilities:**

- o Consistently meet compliance plan goals and objectives, as defined and agreed to by the Board and Senior Management Team.
- o Assist with the development, management, coordination, and continual improvement of the compliance plan. Ensure the effectiveness of

compliance efforts. Work to promote corporate compliance with all applicable laws, regulations, rules, and policies and procedures of governmental authorities and payers.

- o Assure that the compliance plan is reviewed and updated at least annually.

- o Lead the corporate compliance plan development process. Work with administration for furthering plan development.

- o Develop, review and maintain all compliance policies, procedures, standards of conduct, and employee compliance handbooks.

- o Monitor program effectiveness and recommend and make appropriate modifications.

- o Interact with government officials, third party payers, and legal and consulting counsel regarding compliance issues, including plan development, audits, investigations, and other activities.

- o Oversee ongoing training and education of physicians and employees, regarding billing, coding, and other issues subject to the compliance plan, upon hire and at regular intervals. Maintain current records and documentation related to employee training and other compliance-related activities.

- o Identify areas of potential high risk (as related to compliance issues), monitor those areas, and make recommendations and/or take corrective actions.

- o Supervise audits performed by internal personnel and external firms. Review audit findings. Report to the Board regarding audit findings and corrective actions.

- o Ensure proper investigation of all incident reports and ensure that appropriate action is taken and documented thoroughly.

- o Monitor the Corporate Compliance Drop Box and ensure appropriate action is taken based upon any reports received related to potential problems, questionable practices, or known or suspected non-compliant activities or conduct by employees.

- o Work with designated personnel regarding reference or background checks, as defined in policies.

- o Recommend appropriate disciplinary action for employees who violate the compliance plan.

- o Assist in the preparation of an annual budget for compliance activities DM. Implement plan based upon budget projections.

- o Recommend compliance plan changes and improvements as warranted.

**Areas of Professional Focus:**

- Medical Necessity Reviews for Medicare and Commercial Payers to determine accuracy of payer pre-payment and post-payment reviews and to provide health care providers with guidance for clinical documentation requirements.

- Independent Review Organization – Lead on engagements for a wide variety of providers and organizations compelled to participate in Corporate Integrity Agreements (CIA) tied to coding and billing accuracy, arrangements, and Medical Necessity.
- Predictive Analytics and Modeling (proficient in trending and RAT Stats)
- Risk Assessment/Risk Management – Provides an array of services including Risk Based Internal Auditing (RBIA) and Risk Assessment Metrics (RAM) to assist hospitals and health systems in mitigating risk and developing corrective action plans.
- Regulatory Compliance (State and Federal) – Builds and implements compliance programs for health systems and hospitals as well as for physician groups to ensure compliance with all plans the organization participates with.
- Provider Contract compliance – Guidance and assistance with payer contracts negotiations and applicability and enforcement of contract provisions.
- Serves as a third-party compliance officer / consultant for numerous hospitals, health systems and physician groups.
- Hospital Inpatient (IPPS) and Outpatient (OPPS) – Provide guidance and assistance to hospitals and health systems regarding claims processing and adjudication issues including routine services and/or items (PRM 2202.6, 2202.8, 2203) and stop loss claims and/or outlier claims.

**Expert Witness and Testimony Experience:**

- HMSA (Blue Cross Blue Shield of Hawaii and Kristen Lindsay-Dudley – Nutrition Therapy Consultants Inc.). A Dispute Prevention & Resolution Inc (DPR NO. 20-0399) Arbitrator – Hon. Karl Sakamoto.
  - Circuit Court of the First Circuit State of Hawai'i has been filed (Civil No. \_\_\_\_\_) Nutrition Therapy Consultants, INC., Plaintiff vs. Hawaii Medical Services Association, a Hawaii non-profit Corporation
- United States of America v. Antonio Reyes-Vizcarrando, Indictment Criminal No. 19-481 (GAG), Violations: Title 18 United States Code § 1347, 1349, Forfeiture Title 18 United States Code § 982(a)(7), on behalf of Defendant (“Antonio Reyes-Vizcarrando”)
- United States District Court for the District of New Jersey v. Morris Antebi; Case No. 20-MJ-4020
- United States of America v. Antonio Reyes-Vizcarrando, Indictment Criminal No. 19-481 (GAG), Violations: Title 18 United States Code § 1347, 1349, Forfeiture Title 18 United States Code § 982(a)(7)
- Complete Medical Solutions, LLC (CMS) v Family Health Center, Inc (FHC) in matter of arbitration case number 01-18-0003-1682 in the Commercial Arbitration Tribunal for the American Arbitration Association; Mr. David Clark presiding
- The United States of America *ex rel* Judith Zissa, Plaintiffs v. Santa Barbara County Alcohol, Drug and Mental Health Services; The County of Santa Barbara, Case No. SV14-06891-DMG (RZx) Pursuant to the Federal False Claims Act, 31 U.S.C. §§ 3729 *ET SEQ*, Jury Trial
- North Carolina Medical Board; Coding and Documentation Auditor

- Demetric Fields, Plaintiff vs. McCormick and Schmick Restaurant Corp., Defendant; In the General Court of Justice Superior Court Division 17 CVS 005279, State of North Carolina
- South Peninsula Hospital, et al. v. Xerox State Healthcare, LLC, No. 3:15-cv-00177-TMB (D. Alaska)
- United States of America v. Chalifoux, No. 5:17-cr-00020 (N.D.W.V.)
- United States of America v. Richard Martin, No. 8:17-cr301T2YAAS (M.D. Fla.)
- United States of America v. Sheila Harris, No. 17-cr-00001-HG (D. Hawaii)
- United States of America v. Garrett Okubo, No. 17-cr-00572-JMS-01 (D. Hawaii)
- United States of America v. Dr. Jeffrey Campbell, No. 3:17-cr-00087 (W.D. Ky.)
- United States of America v. Dermatology Associates of Knoxville (DAK) – Eastern District of Tennessee – Civil No.
- Dermatology Associates of Knoxville, P.C., Plaintiffs, v. United States of America ex rel. And the State of Tennessee; Complaint for Declaratory Judgement and Motion to Quash Civil Investigative Demand, TCA 29-14-102
- Soft Landing Labs, LTD., v. Health Care Service Corporation, a Mutual Legal Reserve Company, d/b/a Blue Cross Blue Shield of Illinois, American Health Lawyers Association Dispute Resolution Service, Claim No. 4317
- Northside Hospital, Inc., v. Coventry Healthcare of Georgia, Inc., American Health Lawyers Association Dispute Resolution Service, Claim No. 3864
- Kristine Brecht, M.D. Settlement Hearing with Washington State Board of Medical Examiners; Case Number: M2019-94
- Office of Professional Medical Conduct v. Joseph Pober, State of New York, OPMC Nos. CR-11-01-022tA, CR-12-01-0221A
- Medicare Administrative Law Judge Reviews, approximately 250 since 1998

**Certifications and Education:**

- Certified in Healthcare Compliance (CHC) – Health Care Compliance Association (HCCA) - 2017
- Certified Evaluation & Management Auditor (CEMA) – National Alliance of Medical Auditing Specialist (NAMAS) - 2014
- Certified Medical Compliance Officer (CMCO) – Practice Management Institute and Liles Parker, LLC (PMI) - 2015
- Certified Professional Medical Auditor (CPMA) – American Academy of Professional Coders (AAPC) – 02/01/2013
- Certified Professional Coder (CPC) – American Academy of Professional Coders (AAPC) – 02/06/1999
- Certified Medical Practice Executive (CMPE) – Medical Group Management Association (MGMA) – 08/1997
- Certified Medical Practice Manager (CMPM) – DM University – 04/2014
- Certified Professional Coder-Payer (CPC-P) – American Academy of Professional Coders (AAPC) – 04/01/2006

- Certified Medical Office Manager (CMOM) – Practice Management Institute (PMI) –2004
- Certified Medical Insurance Specialist (CMIS) – Practice Management Institute (PMI) –2004
- Certified Medical Coder (CMC) – Practice Management Institute (PMI) – 2004
- Board of Advanced Medical Coding (BAMC) / Certified Compliance Professional- Physician, Advanced SCP) specialties included in certifications: Anesthesia, Cardiology, Evaluation and Management Auditing, Orthopedics, Pain Management, Psychiatry and Behavioral Health, Radiology, and Urology

**Invited Lectures & Speaking Engagements (since 1997):**

- Permanent Panelist on Monitor Monday (Audit Report with Sean M. Weiss) 2019 – Present
- The American Alliance of Orthopedic Executives (AAOE)
- The American Academy of Professional Coders (AAPC)
- The American Otolaryngology Association (AAOE)
- The American Urological Association (AUA)
- The American College of Cardiology (ACC)
- American Psychiatric Association (APA)
- The American Dermatologic Association of Managers (ADAM)
- The Medical Group Management Association (MGMA)
- The National Alliance of Medical Auditing Specialists (NAMAS)
- The American Academy of Family Practitioners (AAFP)
- The OrthoForum Shareholder’s Meeting
- The Georgia Association of Orthopedic Executives (GAOE)
- The State of Hawaii Professional Coders Association (HPCA)
- The State of Kentucky Medical Group Management Association
- The National Society of Certified Healthcare Business Consultants (NSCHBC)
- The Nurse Practitioner Association of New York (The NPA)
- Practice Management Institute (PMI)
- Columbia University
- Brigham Women and Children’s
- Jansen Pharmaceuticals on behalf of the Dayton, Ohio Psychiatric Association (Division of Psychiatric Pharma)
- Miami Dade University Graduating Class



- OrthoVirginia Shareholder Meeting
- The American College of Rheumatology (ACR)
- The National Organization of Rheumatology Managers (NORM)

**Board Affiliation and Steering Committees:**

- American Alliance of Orthopedic Executives (AAOE) Industry Relations Advisory Board; Chairman, Indianapolis (2016 & 2017)
- Editorial Board for VBP Monitor, Minnesota (2015 – Current)
- Editorial Board for BC-Advantage; Nevada & South Carolina (2003 – Current)
- Columbia/HCA Steering Committee; Tennessee (1999 – 2001)
- Georgia Bone and Joint Compliance Committee; Georgia (2018 – Current)
- Cardiovascular Medicine Institute; Maryland (CVI) Compliance Committee (Current)
- Ortho Florida and IHBS Compliance Committee; Tampa (2018 – Current)
- Inova Compliance Steering Committee; Virginia (2018 – Current)
- Articularis Health Group Steering Committee; South Carolina (2019 – Current)

**Honors and Awards:**

- Award for Excellence in Service Journalism, United Communications Group, 2009 – DecisionHealth White Paper “7 Myths About Physician Fees”
- The Jim Altizer Memorial Award (The Medical Management Institute), 2002. Award for demonstrating the highest standards of ethical and moral character.

**Published In (since 1996):**

- TheComplianceGuyBlog.com
- Renal and Urology News
- Urology Practice Management
- RAC Monitor
- Medical Economics
- Part B News
- BC Advantage
- The Coding Edge
- MGMA Connections
- Kareo Newsletter



**Published Articles / Author or Co-Author (since 1996):**

1. Medicare Rules and Regulations – Co-author – The Medical Management Institute; 1996, 1997, 1998, 2001, 2002, 2003
2. Coding for Optimal Reimbursement – Co-author – The Medical Management Institute; 1996, 1997, 1998, 2001, 2002, 2003
3. Conducting Chart Audits – Co-author – The Medical Management Institute; 2001, 2002, 2003
4. The Health Insurance Portability and Accountability Act – Co-author – The Medical Management Institute; 1997
5. A Guide to Negotiating Managed Care Contracts – Author – The CMC Group; 2004
6. Kulhan, Storm, editor, BC-Advantage “Men on a Mission.” BC Advantage, June/July 2011.
7. Sean Weiss. “The Time for Change is Now Things Will Only Get Worse.” BC Advantage, Aug./Sept. 2011.
8. Sean Weiss. “How to Perform a Practice Compliance Audit Tips and Strategies from the Inside.” BC Advantage, Apr./May 2012.
9. Sean Weiss. “Accounting and Finance for Non-Financial Managers Build a Solid Practice in 2012.” BC Advantage, June/July 2012.
10. Sean Weiss. “Interview With Secretary of Health and Human Services (HHS) Kathleen Sebelius.” BC Advantage, Oct./Nov. 2012.
11. Sean Weiss. “Understanding Healthcare from a Politician’s Perspective (Newt Gingrich).” BC Advantage, Dec./Jan. 2012.
12. T. Blake King and Sean M. Weiss. “How to Value Your Practice.” BC Advantage, Mar./Apr. 2013.
13. Sean Weiss. “Unrelenting CMS and Private Payer CBR Inundation of Physician Practice.” The Business of Medicine, July 8, 2015.
14. Sean Weiss. “Effective Leadership in Healthcare.” NAMAS, June 8, 2016.
15. Sean Weiss. “What Happened to Healthcare.” The Business of Medicine, June 10, 2016.
16. Sean Weiss. “Dealing with Difficult Providers.” NAMAS, June 28, 2016.
17. Sean Weiss. “Responding to “The Letter”.” NAMAS, July 19, 2016.
18. Sean Weiss. “When the Government Tries to Change the Rules.” NAMAS, July 29, 2016.
19. Sean Weiss. “I’m Just a Cowboy Not Really But.” NAMAS Monthly Compliance Article, Sept. 27, 2016.
20. Sean Weiss. “Compliance Plans The Truth About Templates.” NAMAS, Sept. 28, 2016.
21. Sean Weiss. “The World of Healthcare...” BC Advantage, Sept. 29, 2016.
22. Sean Weiss. “E&M Audits and Appeals.” NAMAS Monthly Compliance Article, Nov. 8, 2016.

23. Sean Weiss. "To Disclose or Not to Disclose... That is the Question!" BC Advantage, Dec. 22, 2016.
24. Sean Weiss. "AKS Update." NAMAS Monthly Compliance Article, Jan. 3, 2017.
25. Sean Weiss. "The Truth About ZPICs." BC Advantage, May 30, 2017.
26. Sean Weiss. "DOJ Mid-Year Update." Business of Medicine, June 28, 2017.
27. Sean Weiss. "Changes to the Medicare Appeals Process." BC Advantage, Aug. 8, 2017.
28. Sean Weiss. "Berenson-Eggers Type of Service Codes." Urology Today, Aug. 10, 2017.
29. Sean Weiss. "Who Can it Be Knocking at Your Door Are You Prepared." NAMAS Monthly Compliance Article, Aug. 17, 2017.
30. Sean Weiss. "Employees of the Future in Healthcare Managing Millennials and Generation Z." BC Advantage, Aug. 23, 2017.
31. Sean Weiss. "Challenging Medical Necessity and Auditor's Requisite Skills." Business of Medicine, Aug. 25, 2017.
32. Sean Weiss. "Fear Factor The Unethical Business of Medicine." Greenbranch Publishing, Nov. 13, 2017.
33. Sean Weiss. "Creating a Culture of Compliance in 2018." BC Advantage, Jan. 9, 2018.
34. Sean Weiss. "Templates for Documenting Services." BC Advantage, Jan. 11, 2018.
35. Sean Weiss. "Be Good to Yourself So You Can Be Good For Others." BC Advantage, Feb. 27, 2018.
36. Sean Weiss. "Attestation and Notice of Failure to Comply." NAMAS, Mar. 1, 2018.
37. Sean Weiss. "Structuring a Mission Statement." NAMAS, Mar. 1, 2018.
38. Sean Weiss. "Waiver of Copay and Deductible." NAMAS, Mar. 5, 2018.
39. Sean Weiss. "Financial Remedies Language for Employment Agreement." NAMAS, Apr. 4, 2018.
40. Sean Weiss. "Legibility and the Crackdown by Payors." NAMAS, May 31, 2018.
41. Sean Weiss. "Target, Probe, and Educate." NAMAS, 27 June 27, 2018.
42. Sean Weiss. "Defending Evaluation and Management Services." AOA36 Conference, Aug. 12, 2018.